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ADOPTION OF THE REPORT OF THE REGIONAL MEETING

Recommendations on the World Conference and its preparation submitted by Amnesty International, a non-governmental organization in consultative status with the Economic and Social Council

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Proposed Standards for National Human Rights Commissions

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The creation of a national human rights commission can be an important mechanism for strengthening human rights protection but can never replace, nor should it in any way diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary. The creation of such a human rights commission should go hand in hand with a thorough review of existing legal and other institutions in order to make these more effective instruments of human rights protection. These initiatives should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ensuring that those who violate human rights cannot do so with impunity.

In March 1992 the United Nations Commission on Human Rights endorsed the *Principles relating to the status of national institutions*.[1] These internationally recognized Principles should serve as the basic minimum guidelines for the establishment of national institutions for the promotion and protection of human rights.

Amnesty International would like to recommend the following standards, as essential elements for consideration in the establishment and functioning of national human rights commissions.

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[1] In March 1992 the United Nations Commission on Human Rights adopted by consensus Resolution 1992/54, which reaffirmed the importance of developing effective national institutions for the promotion and protection of human rights, and included the *Principles relating to the status of national institutions*. The text of the Principles is appended to this document.

Mandate and composition of the Commission

- The Commission should be independent from government and its Charter should reflect this. The Commission should be established by law or, preferably, by Constitutional amendment.

- The Commission should consist of men and women known for their integrity and impartiality of judgment who shall decide matters before them on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences from any quarter or for any reason. Its members should be independent of government, have a proven expertise and competence in the field of protecting and promoting human rights, and should be drawn from a variety of different backgrounds, including relevant professional groups and the non-governmental sector.

- The method of selection of its members should be fair and transparent and should afford all necessary guarantees of independence and broad representation. Commission members should serve in their individual capacity and should be able to serve the Commission effectively. The terms of their appointment, tenure and removal should be clearly specified, laid down in the Charter and should afford the strongest possible guarantees of competence, impartiality and independence.

- The Commission should be mandated to monitor and report on compliance with and implementation of relevant international human rights standards, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the United Nations (UN) Declaration and Convention against Torture, as well as the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions.

- The Commission should be mandated to review the effectiveness of existing legislation and or administrative provisions in protecting human rights and should be able to make recommendations for the amendment of such legislation or the introduction of new legislation as necessary. The Commission should also examine bills and proposals for new legislation put forward by the government or parliament to verify its conformity with international human rights standards and to ensure the state's compliance with the above international human rights instruments.

- The scope of the Commission's concerns should be defined in terms of state obligations under international human rights law. The Commission should therefore exclude from its mandate criminal actions by criminal organizations, by political groups which have resorted to arms as a means to achieve their goals, and criminal actions occurring in the context of domestic violence.

- The Commission should have precisely defined powers to investigate on its own initiative situations and cases of reported human rights violations and set clear priorities for its work in accordance with the seriousness of the violations reported to it. Priority should

be given to alleged violations of the right to life and security of the person, and the right not to be tortured (rights from which no derogation can be made by any government under any circumstances); as well as to the right not to be arbitrarily arrested or detained.

- The Commission should be directed to establish effective cooperation with non-governmental organizations with first-hand information about reports of human rights violations.

- The Commission should also have the powers to conduct wide-ranging national inquiries on human rights concerns of fundamental importance to the nation.

- It is recommended that initially the Commission conduct a critical analysis of the factors which have contributed to the persistence of human rights violations within the national territory, including the failure of existing institutions and legal mechanisms to provide adequate human rights protection. Recommendations for legal and institutional reform to halt violations may be proposed on the basis of the findings of the study.

- The Commission should be authorized to investigate the conduct of the security forces throughout the national territory. To do this effectively, the Commission should have adequate facilities to conduct thorough investigations, independent of the security forces, whose conduct it will be called upon to assess.

Facilities and methodology of the Commission

- The Commission should have all necessary human and material resources to examine, thoroughly, effectively, speedily and throughout the country, the evidence and other case material concerning specific allegations of violations reported to it.

- The Commission should have its own investigative machinery and should have access to expert assistance whenever required to verify alleged violations. It should have adequate facilities to carry out on-the-spot investigations. The Commission should have immediate and unhindered access to all places where detained persons are held or are suspected to be held. Officials should be obliged to cooperate with the Commission's investigations.

- The Commission should have powers to initiate investigations on its own initiative. It should be able to receive communications not only from the complainants themselves but also, if they themselves are unable or prevented from doing so, from lawyers, relatives or others acting on their behalf, including non-governmental groups. Investigations initiated by the Commission should be adequately publicized, especially at the regional and local levels, to enable and encourage witnesses to come forward to testify.

- The Commission should have full and effective powers to compel the attendance of witnesses and the production of documents.

- The Commission should have full and effective powers to protect witnesses, complainants, or others providing evidence to the Commission, including bringing about the suspension or transfer of officials allegedly involved - without prejudice pending completion of

investigations - to other duties where they would have no power over witnesses or complainants. Victims or relatives should have access to all relevant information and documents relating to the investigation and be granted all necessary facilities to present evidence. The Commission should be able to provide financial assistance to witnesses enabling them to travel and be accommodated in order to present their evidence before the Commission.

- The Commission should work in an open way with its hearings generally open to the public. Private hearings should be an exceptional measure and be resorted to only in specific pre-established circumstances. The Commission's methodology and the results of its investigations, together with official reports, including *post mortem* and other expert reports as well as police and court records, should in each case be published in full, in an easily accessible and comprehensible form.

- The Commission should also prepare regular reports documenting all the complaints it has received, together with the action taken in each case, as well as an account of all its other activities for the promotion and protection of human rights. The Commission's reports should be presented periodically to representative national and regional bodies.

- The result of the Commission's investigations should be referred to appropriate judicial bodies without delay. Anyone the Commission alleges to have been responsible for committing human rights violations or for ordering, encouraging or permitting them, should automatically be brought to justice. The government should ensure that any prosecutions for human rights-related offences are brought by authorities which are distinctly independent from the security forces or other bodies allegedly implicated in the human rights violations.

- The Commission should have powers to ensure that superior officers are held accountable for acts committed under their authority and should be mandated to closely follow subsequent legal proceedings in the case, by monitoring trials, or if necessary appearing before the court to make legal submissions to press for appropriate legal action to be taken within a reasonable time.

- The Commission should have powers to ensure effective remedies, including interim measures to protect the life and safety of an individual and free medical treatment where necessary; it should ensure that full and prompt compensation is paid and other measures of redress and rehabilitation are taken in all cases it has taken up in which members of the security forces are found to have perpetrated human rights violations.

- The government should undertake an obligation to respond, within a reasonable time, to the case-specific as well as the more general findings, conclusions and recommendations made by the Commission. The government's response should be made public.